

1 SEDGWICK LLP
JAMES P. DIWIK (Bar No. 164016)
2 james.diwik@sedgwicklaw.com
JOEL M. LONG (Bar No. 226061)
3 joel.long@sedgwicklaw.com
One Market Plaza
4 Steuart Tower, 8th Floor
San Francisco, California 94105
5 Telephone: (415) 781-7900
Facsimile: (415) 781-2635

6 Attorneys for Putative Defendants
7 Safeco Insurance Companies, Liberty
Mutual Group, and Safeco Corporation
8 and Defendant First National Insurance
Company of America
9

10
11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 In re:

15 HSR GENERAL ENGINEERING
CONTRACTORS, INC.,

16 Debtor.
17

18 HSR GENERAL ENGINEERING
CONTRACTORS, INC.,

19 Plaintiff,
20

21 v.

22 SAFECO INSURANCE COMPANIES, et
al.,

23 Defendants.
24
25
26
27
28

Case No. 10-58737

Chapter 11

Adversary No. 10-05309 CN

**DECLARATION OF JOEL M. LONG IN
SUPPORT OF MOTIONS TO COMPEL
AND FOR SANCTIONS AGAINST
PLAINTIFF**

Date: August 12, 2011
Time: 2:00 p.m.
Judge: Hon. Charles Novack
Location: San Jose Courthouse
Courtroom 3070

1 I, Joel M. Long, declare as follows:

2 1. I am licensed to practice law before all courts of the State of California and before
3 this Court, and I am an attorney with the law firm of Sedgwick LLP (formerly Sedgwick, Detert,
4 Moran & Arnold LLP) ("Sedgwick"), counsel of record for putative defendants Safeco Insurance
5 Companies, Liberty Mutual Group, and Safeco Corporation and defendant First National
6 Insurance Company of America (collectively, the "Defendants"). I am one of the attorneys who
7 has performed legal services on the Defendants' behalf in this adversary proceeding, as well as
8 on behalf of creditor First National Insurance Company of America in the main Chapter 11
9 bankruptcy proceeding.

10 2. The matters stated in this declaration are of my own personal knowledge except as
11 to those matters which are based on information and belief, and as to those matters, I am
12 informed and believe them to be true. If called upon I could and would competently testify to all
13 matters stated in this declaration under oath.

14 3. This declaration is submitted in support of the Defendants' motions to compel and
15 for sanctions against plaintiff HSR General Engineering Services, Inc. ("HSR").

16 4. To date, the Defendants have not been served with initial disclosures from HSR.

17 5. On June 6, 2011, I wrote to counsel for HSR confirming this and requesting that
18 HSR serve initial disclosures. HSR did not respond to that letter. (A true and correct copy of my
19 June 6, 2011 letter is attached as Exhibit A.)

20 6. On June 6, 2011, the Defendants' first request for admissions was personally
21 served on HSR. (A true and correct copy of the Defendants' first request for admissions is
22 attached as Exhibit B.)

23 7. On July 6, 2011, HSR served a response to the Defendants' first request for
24 admissions. (A true and correct copy of HSR's response to the Defendants' first request for
25 admissions is attached as Exhibit C.)

26 8. On June 6, 2011, the Defendants' first set of interrogatories was personally served
27 on HSR. (A true and correct copy of the Defendants' first set of interrogatories is attached as
28 Exhibit D.)

1 9. On July 6, 2011, HSR served a response to the Defendants' first set of
2 interrogatories. (A true and correct copy of HSR's response to the Defendants' first set of
3 interrogatories is attached as Exhibit E.)

4 10. On June 6, 2011, the Defendants' first request for production of documents was
5 personally served on HSR. (A true and correct copy of the Defendants' first request for
6 production of documents is attached as Exhibit F.)

7 11. On July 6, 2011, HSR served a response to the Defendants' first request for
8 production of documents. (A true and correct copy of HSR's response to the Defendants' first
9 request for production of documents is attaches as Exhibit G.)

10 12. To date, HSR has not produced any documents or provided a privilege log.

11 13. By letter e-mailed and faxed on July 8, 2011, I wrote to counsel for HSR to meet
12 and confer regarding the deficiencies in HSR's discovery responses. (A true and correct copy of
13 my July 8, 2011 letter is attached as Exhibit H.)

14 14. Later on July 8, 2011, I called counsel for HSR in a further attempt to meet and
15 confer, leaving a voice-mail message.

16 15. By e-mail later on July 8, 2011, counsel for HSR stated that he was out of the
17 office and mentioned discussing the matter on either July 11 or July 12, 2011. (A true and
18 correct copy of HSR's counsel's July 8, 2011 e-mail is attached as Exhibit I.)

19 16. On July 12, 2011, I again called counsel for HSR in a further attempt to meet and
20 confer, leaving a voice-mail message.

21 17. Other than the July 8, 2011 e-mail discussed in Paragraph 15 above, I have not
22 received any response to these meet and confer efforts.

23 18. On June 13, 2011, the Defendants' notice of deposition of HSR (the "Notice")
24 was served on HSR by overnight mail. (A true and correct copy of the notice is attached as
25 Exhibit J.)

26 19. HSR did not object or otherwise respond to the Notice.

27 20. By letter dated June 30, 2011, I confirmed that the deposition was going forward
28 as noticed. HSR's counsel responded by letter later on June 30, 2011. I responded by e-mail

1 later on June 30, 2011. (True and correct copies of the foregoing correspondence are attached
2 collectively as Exhibit K.)

3 21. On the morning of July 1, 2011, I called counsel for HSR to follow up on the
4 Defendants' request for deposition dates. HSR's counsel stated that he would provide dates
5 shortly.

6 22. By e-mail on the evening of July 1, 2011, I served an amended deposition notice
7 rescheduling the deposition for July 6, 2011. (A true and correct copy of my July 1, 2011 e-mail
8 and amended deposition notice are attached as Exhibit L.)

9 23. By e-mails dated July 5 and 6, 2011, I wrote to counsel for HSR to follow up on
10 the Defendants' request for deposition dates. (True and correct copies of my July 5 and 6, 2011
11 e-mails are attached collectively as Exhibit M.)

12 24. By e-mail later on July 6, 2011, counsel for HSR responded. (A true and correct
13 copy of HSR's counsel's July 6, 2011 e-mail is attached as Exhibit N.)

14 25. As of the filing of this motion, the Defendants have not received any deposition
15 dates from HSR.

16 26. I have spent in excess of six hours preparing Quality's motions to compel and for
17 sanctions. This time includes completion of the following tasks: (a) conducting factual and legal
18 research for the motions; (b) preparing the motions; and (c) preparing this declaration. This time
19 does not include any tasks associated with meeting and conferring with HSR before the motions
20 were filed, nor does it include any anticipated time for preparing for and attending a hearing on
21 the motions. Given the length and substance of the motions, I believe that six hours in
22 connection with preparing the motions is reasonable and appropriate.

23 27. I am special counsel at Sedgwick. I graduated from George Washington
24 University Law School in Washington, DC in 1998. Thereafter, I practiced commercial litigation
25 at a boutique firm in Washington, DC for approximately three years. I began working at
26 Sedgwick's San Francisco office as an associate attorney in March 2003 and have worked at
27 Sedgwick ever since. Much of my practice has been devoted to representing surety companies,
28 including representing surety clients in bankruptcy cases.

1 28. My hourly rate for work on this matter is \$275 per hour. Based on my eight-plus
2 years practicing surety and construction law in the Northern California Bay Area, I believe that
3 my hourly rate is reasonable and consistent with rates charged for similar work on behalf of
4 similarly situated clients in the Bay Area legal marketplace.

5 29. Quality requests an award of attorney's fees in connection with its motions to
6 compel and for sanctions in the amount of \$1,650, representing six hours at the rate of \$275 per
7 hour.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed this
9 13th day of July, 2011.

10 /s/ Joel M. Long

11 Joel M. Long
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28